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ABSTRACT

Designed to provide insight into both the philosophical and emotional dimensions of community conflicts over students' exposure to ideas, this report summarizes 4 current court cases and 16 previous decisions in cases involving the banning of books, magazines, and films from public schools. Some details of two recent cases are provided to illustrate the extent to which individuals and entire communities have become involved in both sides of the censorship controversy. Current cases reviewed are Wexner v. Anderson Union High School District (California), Mozert v. Hawkins County School System (Tennessee), and English v. Evergreen School District and Grove v. Mead School District #354 (Washington). Previous decisions are reported for McKamey v. Mt. Diablo Unified School District (California); Cary v. Board of Education, Arapahoe School District (Colorado); Fogarty v. Atchley (Idaho); Zykan v. Warsaw Community School Board (Indiana); Sheck v. Baileyville School Committee (Maine); Right to Read Defense Committee v. School Committee of the City of Chelsea (Massachusetts); Pratt v. Indiana School District and Antoinette R. Maris v. Independent School District #728 Elk River (Minnesota); Loewen v. Turnipseed (Mississippi); Helena Citizens for Freedom of Expression v. Helena School District #1 (Montana); Salvail v. Nashua Board of Education (New Hampshire); Board of Education, Island Trees v. Pico and Presidents Council v. Community School Board #25 (New York); Minarcini v. Strongsville City District (Ohio); Johnson v. Stuart (Oregon); and Bicknell v. Vergennes Union High School Board (Vermont). A brief introductory statement reviews some of the issues involved, amicus briefs filed in Pico are listed, and a bibliography of banned books is provided. (BBM)

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BOOKS ON TRIAL:

A SURVEY OF RECENT CASES

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A REPORT FROM THE CLEARINGHOUSE ON SCHOOL BOOK-BANNING LITIGATION

NATIONAL COALITION AGAINST CENSORSHIP

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BOOKS ON TRIAL:

A Survey of Recent Cases

Contents

	Page
INTRODUCTION	1
THE GOVERNING CASE: BOARD OF EDUCATION, ISLAND TREES v. PICO	5
SUMMARY OF CURRENT CASES	6
SUMMARY OF PREVIOUS DECISIONS	9
AMICUS BRIEFS IN PICO	18
BANNED BOOKS	19
SOME ATTORNEYS INVOLVED IN THE CASES	23

BOOKS ON TRIAL: A Survey of Recent Cases
A periodic report from NCAC's Clearinghouse on School Book-banning Litigation

The National Coalition Against Censorship
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INTRODUCTION

The banning of books, magazines and films from public schools has become an issue of increasing importance. Censorship controversies have erupted in schools and communities across the country, and, while a decade ago almost no case law existed, numerous court suits have been filed in recent years, culminating in the Supreme Court decision in Board of Education, Island Trees v. Pico. In that case the Court ruled that it is unconstitutional for a school board to remove books from school libraries "simply because they dislike the ideas contained in those books." The decision has been of great importance in resisting censorship pressures, but court cases continue.

The National Coalition Against Censorship operates a unique national Clearinghouse for information about these court cases. This report summarizes information from the Clearinghouse.

The cases provide insight into both the philosophical and emotional dimensions of community conflicts over students' exposure to ideas. Some details of two recent cases illustrate the extent to which individuals and entire communities have become deeply involved in both sides of the censorship controversy.

California

In 1980, an intense dispute developed around the use of Ms. magazine in high school libraries of northern California's Contra Costa County. Beyond the immediate battle over the use of the magazine as an educational tool, questions regarding political views, feminism, lifestyle, religion and sexuality were raised. After a parental permission restriction was imposed on the magazine by the

school board, the heated community controversy opened a chasm between those who insisted that the magazine should be banned and those who believed the restriction should be removed.

A committee, called Citizens for the Improvement of Public Schools, petitioned the local (Mt. Diablo) school board to remove Ms. from the district's four high schools. The petition, signed by 423 citizens, mostly members of local churches, charged that the magazine "directly conflicts with the moral values and ideologies taught in the homes of many students in the district." Opponents of Ms. called the magazine "poison," claimed that it was "obscene" and "pornographic," and condemned the magazine's content on such issues as birth control and abortion.

There were months of public debate, school board meetings attended by hundreds of citizens, and full page newspaper ads addressing both sides of the issue. While many religious members of the community, led by Baptist minister Harold Carlson, strongly fought Ms., others led by Unitarian minister Peter Christiansen supported the magazine, and called those seeking to ban Ms. a "literary lynch mob."

A court suit was filed by students, teachers, a parent, a taxpayer and the Ms. Magazine Foundation, supported by the American Civil Liberties Union of Northern California, which challenged the parental permission restriction on the magazine's use. In August, 1983, Superior Court Judge David A. Dolgin ruled that the restriction violated the First Amendment privileges expressed in the California constitution. Dolgin decided that although parents may forbid their own children to use school library materials, "neither the School Board nor the objecting parents may exercise this right for children not their own."

Tennessee

Most court cases involving censorship in schools are brought by those who oppose censorship and are seeking to

vindicate First Amendment rights. In Church Hill, Tennessee, however, a fierce battle has been initiated by a parents' group, Citizens Organized for Better Schools (COBS), to ban an elementary reading series published by Holt, Rinehart & Winston, from the district's public schools. The group charges that the reading series, used from first through eighth grade, teaches "secular humanism," anti-biblical bias, evolution, sexual permissiveness and "rebellious self-authority." COBS has attacked the books, which were approved for adoption by the state's textbook commission, as anti-American and anti-Christian. The vocal group led by parent Robert Mozert Jr., claims that they have a First Amendment right not to have their children exposed to books which violate their religious and moral convictions.

COBS parents agree with well-known Texas textbook critics Mel and Norma Gabler, and rely on their criticisms and evaluation. The parents have forbidden their children to use the books, and have removed their children from the public schools, allowing them to be suspended. One student's mother, Vicki Frost, a founder of COBS, was arrested on trespassing charges at Church Hill Elementary School. At the school, Frost had read a list of requests, provoked a confrontation with school principal Jean Price, and refused to leave unless she was arrested.

In Mozert v. Hawkins County School System, COBS is represented by Michael P. Farris, legal counsel for a New Right religious group, Concerned Women for America.

Other citizens of Church Hill have organized to fight COBS' attack. Hawkins County Superintendent of Schools Bill Snodgrass led a PTA meeting attended by about 1,000 people, at which a group of parents, teachers and clergy members formed a new organization, Citizens Advocating the Right to Education (CARE) to fight COBS, support the Hawkins County Educational System, and "[d]efend the educational system of America...free from disruption and censorship." Members of

the school system have refuted COBS charges regarding the books, and defended the series. Students have also organized against COBS, as has the Church Hill Ministerial Association.

In March of 1984, Federal District Court Judge Thomas G. Hull dismissed the case, stating that the First Amendment does not protect anyone from different value systems or religious ideas, and added that the books were "well calculated to equip today's children to face our increasingly complex and diverse society with sophistication and tolerance." Farris is currently appealing the case.

Today's Realities

The court cases summarized in this report reflect the realities of censorship in schools today. No idea is immune from attack. Books, films and magazines spanning a broad range of content have been challenged. Nor is any place spared: court cases arise in many different parts of the country, in both metropolitan and rural areas, in classrooms and in school libraries, and in elementary, junior and senior high schools.

It is important to expose students, who are individuals with rights, to a variety of ideas, opinions and value systems. The educational process must prepare students to become citizens who can take part in democratic decision-making, and must recognize that access to a spectrum of information and ideas is essential for every individual's moral and intellectual development.

> "[C]ensorship of what we see and hear and read constitutes an unacceptable dictatorship over our minds and a dangerous opening to religious, political, artistic and intellectual repression."
>
> From NCAC Statement of Concern, supported by all of the Coalition's participating organizations.

THE GOVERNING CASE:
BOARD OF EDUCATION, ISLAND TREES v. PICO

The United States Supreme Court ruled in 1982, in Board of Education, Island Trees v. Pico, that it is not constitutionally permissible for school boards to remove books from school libraries "simply because they dislike the ideas contained in those books." The decision limits the otherwise broad authority of school boards in educational matters, and gives students and parents the right to bring suit for First Amendment violations when books are removed from school libraries. School boards involved in book removals may now be required to have their motivations scrutinized at a trial.

The Island Trees school board reshelved the banned books, thereby avoiding a trial. However, they required a notice be sent to the parent of any student who borrowed one of the books. This restriction violated state law protecting the confidentiality of library records, and the school board finally dropped it. See page 15 for further information on this case.

The banned books were:

1. Slaughterhouse Five, by Kurt Vonnegut, Jr.
2. The Fixer, by Bernard Malamud
3. The Naked Ape, by Desmond Morris
4. Down These Mean Streets, by Piri Thomas
5. Best Short Stories by Negro Writers, edited by Langston Hughes
6. Go Ask Alice, Anonymous
7. A Hero Ain't Nothin' But a Sandwich, by Alice Childress
8. Soul On Ice, by Eldridge Cleaver
9. A Reader for Writers, edited by Jerome Archer
10. Laughing Boy, by Oliver LaFarge
11. Black Boy, by Richard Wright

SUMMARY OF CURRENT CASES

CALIFORNIA

Wexner v. Anderson Union High School District
(unreported)

The removal of five of Richard Brautigan's best known books from library and classroom use in Anderson Union High School, in Shasta County, California, is being challenged under the state constitution by the ACLU of Northern California, representing teachers, students, and Brautigan's publisher, Seymour Lawrence. This is the first time that a publisher is involved in a book-banning case of this kind.

Anderson principal J. D. Leitaker confiscated two Brautigan books -- The Abortion: An Historical Romance and The Pill Versus the Springhill Mining Disaster -- claiming that the books "would not be socially acceptable to the people of the District because of obscenities and sexual references." Subsequently, following a school council review procedure, all of Brautigan's books were removed.

A trial judge ruled that since the books were not legally obscene, the school board lacked the authority to ban them. The books were restored to the school library, but not to classroom use, where they had been elective reading for eight years. Plaintiffs are appealing to have the books returned to elective classroom use, and the school board is appealing the aspect of the ruling returning the books to the school library. Oral argument took place in the state court of appeals on May 6, 1983 and a decision is pending.

TENNESSEE

Mozert v. Hawkins County School System
579 F. Supp. 1051 and 582 F. Supp. 201

While most cases involving book censorship are brought by those who are protesting censorship, for the second time recently, a suit has been initiated by those who seek to have certain books banned. Michael P. Farris, the attorney in the effort to ban Gordon Parks' The Learning Tree in Grove v. Mead School District #354, is helping to lead an attack in

Tennessee against an elementary reading series published by Holt, Rinehart & Winston.

Farris, legal counsel for Beverly LaHaye's ultra-fundamentalist group, Concerned Women for America, filed suit in December of 1983 on behalf of a newly organized parents group, Citizens Organized for Better Schools (COBS), and eleven fundamentalist families. The plaintiffs charged that the books taught witchcraft, situation ethics, disrespect for parental authority, evolution and the "religion of Secular Humanism," and held that the refusal by school officials to remove the reading series and to provide an alternative violated the free exercise of religion. Defendants included school board members, the school superintendent and a number of school principals.

In a first decision, Federal District Judge Thomas G. Hull dismissed the case excepting for an allegation that the books were not religiously neutral, on which issue he requested substantiation. Farris' further memorandum (available from NCAC) was enlightening on fundamentalist thinking but unpersuasive to Judge Hull as to constitutional rights. On March 15, 1984, he dismissed the case, finding the books constitutionally neutral and reiterating the principle that the First Amendment does not protect anyone from exposure to morally offensive value systems or antithetical religious ideas.

Farris is currently appealing the case to the U. S. Court of Appeals for the 6th Circuit.

WASHINGTON

English v. Evergreen School District
(filed but not decided)

In July 1983, on behalf of students and parents, the ACLU of Washington filed suit in state court against the Evergreen School District in Clark County. The plaintiffs charged that the removal of over 30 books from mainly junior high school libraries violated their rights of free speech and due process of law.

The complaint cites six incidents beginning in 1982 in which the District's Instructional Materials Committee arbitrarily approved book removals without notice to students or parents, and without the opportunity for a hearing required by the state's Open Public Meeting Act. The suit challenged violation of existing policies and the policies

themselves for permitting inadequate procedures to defend a challenged book.

The school district has now put in place and implemented a more acceptable policy on book challenges. Negotiations toward a possible settlement are at this writing (January 1985) underway.

Grove v. Mead School District #354
(unreported)

On September 27, 1982, a Federal District Court judge in the state of Washington ruled that First Amendment rights of parents are not violated by the requirement that their children read The Learning Tree, by Gordon Parks, in a sophomore English class.

A complaint had been filed by parents in federal district court in Mead, Washington, asking for a permanent injunction against the use of the book by the school district, asserting that it contains objectionable material such as swearing, explicit sexual descriptions and blasphemies. The Mead Education Association, at the request of the school board, intervened as a defendant, and the ACLU of Washington is participating as amicus curiae.

Judge Robert J. McNichols found no basis in fact or law for the plaintiffs' claim, and dismissed the suit. A request for reconsideration by the district court was denied. Michael P. Farris, then attorney for the Moral Majority of Washington (which changed its name to the Bill of Rights Legal Foundation), brought the case and has appealed it to the United States Court of Appeals for the Ninth Circuit. Argument was heard in September 1984 and a decision is awaited.

This case is one of two recently brought by those who seek to have a book removed, rather than by those objecting to a book's removal. (See TENNESSEE.)

SUMMARY OF PREVIOUS DECISIONS

CALIFORNIA

McKamey v. Mt. Diablo Unified School District
(unreported)

A policy of restricted access to material, rather than an outright ban, has been successfully challenged in Contra Costa County California. On August 19, 1983, Superior Court Judge David A. Dolgin ruled that the restriction imposed by a school board requiring students to obtain parental permission to use Ms. magazine in high school libraries violated their rights under the California Constitution. Dolgin held that although a parent may forbid his or her own child to use school library materials, neither the school board nor objecting parents could exercise this right for children not their own. The school board did not appeal.

The ACLU of Northern California filed the suit on behalf of plaintiffs including students, teachers, a parent, a taxpayer, and the Ms. Magazine Foundation, after the Mount Diablo Unified School District restricted the magazine use. The decision had followed intense community controversy between those who wanted students to have unrestricted access to Ms., and those who wanted it to be removed from the libraries. Those calling for the magazine to be banned called it "pornographic" and "obscene" and objected to material in it relating to birth control and abortion.

COLORADO

Cary v. Board of Education, Arapahoe School District
598 F. 2d 535 (10th Cir. 1979)

In 1979, the Tenth Circuit of Appeals upheld an Aurora, Colorado school board which had banned ten books, all of which were already in use in language arts classes. The suit was brought by five high school teachers who asserted their First Amendment rights were violated when the Board of Education banned the ten books while approving 1,275 others. The court ruled that the Board was "acting within its rights in omitting the books even though the decision was a political one influenced by the personal views of the members."

IDAHO

Fogarty v. Atchley
(filed but not decided)

Ken Kesey's One Flew Over the Cuckoo's Nest was banned by the school board in St. Anthony, Idaho. The board put on probation and eventually fired the teacher, John Fogarty, who had used the book for optional reading in his high school English class. The book banning was challenged by Fogarty, who was represented by the Mountain States Regional Office of the ACLU.

Settlement negotiatons were completed in 1982; the school board established a policy providing for a district review committee which includes English teachers. The suit was dismissed.

INDIANA

Zykan v. Warsaw Community School Board
631 F. 2d 1300 (7th Cir. 1980)

In this case, the Seventh Circuit Court of Appeals, in August 1980, upheld a District Court dismissal of a complaint alleging First Amendment violations by the Warsaw, Indiana school board. The lower court had found inadequate arguments that Warsaw students' First Amendment rights were violated when pages were cut out of class copies of the book Student Critic; further classroom use was prohibited for five books, Values Clarification, The Stepford Wives, Go Ask Alice, The Bell Jar and Growing Up Female in America; and ten courses were deleted from the curriculum including Values Clarification, Black Literature, Gothic Literature, Folklore and Legends, Science Fiction, Shakespeare and Creative Writing. In agreeing to the dismissal, the opinion said there are "only limited constitutional constraints on the form and content of decisions of local school boards" and "it is generally permissible and appropriate for local boards to make decisions based upon their personal social, political and moral views."

In partial concession to First Amendment arguments, the appeals court said a constitutional violation would have occurred if the school board had attempted to indoctrinate students in one particular view to the exclusion of others, and the court gave plaintiffs leave to attempt to meet that standard. The case was not pursued.

Zykan was one of a number of federal suits against the Warsaw school board which were brought on behalf of dismissed teachers, parents and students. Forty copies of Values Clarification, one of the removed titles, were burned by a senior citizens group. Four of the banned books had been used for a course on women in literature, the teacher of which was fired for protesting. A student who wrote in her school newspaper about teacher dismissals was asked to resign from the paper. When she refused, the paper was shut down.

MAINE

Sheck v. Baileyville School Committee
530 F. Supp. 679 (D. Maine 1982)

On January 22, 1982, a federal district court judge in Maine ordered the book 365 Days returned to the Woodland High School library after a hearing requesting preliminary injunctive relief on behalf of student plaintiffs. The Baileyville Maine School Committee removed the book after a parental complaint based on its language. Dr. Ronald Glasser's book is about experiences of American combat soldiers in Vietnam.

In his decision Judge Conrad Cyr said: "...As long as words convey ideas, federal courts must remain on first-amendment alert in bookbanning cases, even those ostensibly based strictly on vocabular considerations. A less vigilant rule would leave the care of the flock to the fox that is only after their feathers."

As part of a court settlement (available from NCAC), strict procedures must be followed if library materials are challenged in the future. No restricted shelves are permitted, and a monitor has been appointed by the court to serve for seven years to investigate any possible circumvention of proper access.

Counsel fees and costs for the plaintiffs totalling $14,000 were granted.

MASSACHUSETTS

Right to Read Defense Committee v. School Committee of the City of Chelsea
454 F. Supp. 703 (D. Mass. 1978)

In the summer of 1978, U.S. District Court Judge Joseph

Tauro ordered the Chelsea, Massachusetts school board to restore to the high school library copies of an anthology of writings by adolescents, Male and Female Under 18. The board's decision to remove the book was prompted by one parent's objection to the language of a poem, "The City to a Young Girl," written by a 15 year old New York City high school student. The suit was brought by students, parents, teachers and librarians.

In his decision, Judge Tauro stated:

> "What is at stake here is the right to read and be exposed to controversial thoughts, a valuable right subject to First Amendment protection. The most effective antidote to the poison of mindless orthodoxy is ready access to a broad sweep of ideas. There is no danger in such exposure; the danger is in mind control."

MINNESOTA

Pratt v. Indiana School District
670 F. 2d 771 (8th Cir. 1982)

Students in Forest Lake, Minnesota, represented by the Minnesota Civil Liberties Union, filed a complaint in federal court because of the banning by the Forest Lake School Board of the film The Lottery, based on the Shirley Jackson short story. The film, and a "trailer" film discussing its themes, were removed from high school classrooms following objection by parents and others, including charges that the material was "a subtle way of accomplishing destruction of family unit causing them [students] again to question their values, traditions and Religious Beliefs...."

A federal district court ruled in 1981 that the decision to remove the film was unconstitutional and violated the First Amendment rights of the students. The school board appealed. The U.S. Court of Appeals for the Eighth Circuit affirmed the District Court's decision in January 1982.

The print version of The Lottery, considered a modern classic, remained available in the school library throughout the legal proceedings. The school had complaint and review procedures which were properly complied with. Nevertheless, the court said the banning was an unconstitutional restraint on expression because it was based on assertions that the films threatened students' family values and religious beliefs. More was at issue, the decision said, than sensibilities: "What is at stake is the right to receive

information and to be exposed to controversial ideas -- a fundamental First Amendment right. If these films can be banned by those opposed to their ideological theme, then a precedent is set for the removal of any such work." The film is back in classroom use, and $17,000 in attorneys fees have been awarded.

Antoinette R. Maris v. Independent School District #728 Elk River
(filed but not decided)

The Elk River Public School Board decided on June 9, 1982 to remove the books Young and Black in America; Deenie; Are You There God? It's Me Margaret; Then Again Maybe I Won't; and What is a Girl? What is a Boy? from the shelves of Handke Elementary School Library, and to require parental permission for their use in the junior high library. The removal was in response to a parent's complaint that the books used vulgar and obscene language, were sexually explicit and included anti-religious sentiment.

The Minnesota Civil Liberties Union filed suit on January 24, 1983 on behalf of a fourth grader, Antoinette R. Maris and her mother Margo E. Maris, who claimed that the removal of the books violated a student's right to receive information and ideas within the school environment. In response to the filing of the suit, the school board returned the books to the elementary school, and to the junior high library. The board agreed that the removal of any other books will be subject to an articulated, constitutionally sound process.

In August, 1983, attorneys' fees in the amount of $2,787.67 were awarded.

MISSISSIPPI

Loewen v. Turnipseed
488 F. Supp. 1138 (N.D. Miss. 1980)

This Mississippi textbook suit against the State Textbook Purchasing Board involved censorship of information about the role of black Mississippians in that state's history. State law authorizes the Textbook Purchasing Board to recommend up to five textbooks for selection by local school districts -- private as well as public -- for use in mandated ninth grade Mississippi History classes; the textbook commission had adopted only one book, which omitted or distorted the role of black Mississippians. The suit was brought on behalf of students, parents, teachers, school

administrators, and authors and editors of a refused text entitled Mississippi: Conflict and Change by the Lawyers Committee for the Civil Rights Under Law. In April 1980, U.S. District Court Judge Orma R. Smith enjoined the State Textbook Purchasing Board from rejecting any textbook for racial reasons and ordered it to make available the multiracial, multiethnic state history textbook the Board rejected six years before.

MONTANA

Helena Citizens for Freedom of Expression
v. Helena School District #1.
(unreported)

The banning of the book Our Bodies, Ourselves by the trustees of Helena School District No. 1 was challenged in a suit in U.S. District Court by a group called Helena Citizens for Freedom of Expresssion. The suit charged that the removal of the book violated the students' constitutional rights of freedom of speech and due process of law, and that the board did not follow its own procedures for reviewing books.

(At one point in the controversy, a state prosecutor threatened to bring criminal charges against any teacher or librarian who gave the book to a minor. "Americans have genuflected too long at the altar of free speech," he said.)

On March 19, 1980, the suit was dismissed by U.S. District Court Judge James Batten for issues relating to standing.

The book is reported to be back in the school library.

NEW HAMPSHIRE

Salvail v. Nashua Board of Education
469 F. Supp. 1269 (D.N.H. 1979)

In May 1979, a U.S. District Court Judge found that the Nashua, New Hampshire school board had violated students' First Amendment rights when it banned Ms. magazine from the Nashua High School library. The court ordered the board to replace the issues it had removed and resubscribe to the magazine. The suit was brought on behalf of students, teachers and other citizens by the New Hampshire Civil Liberties Union.

NEW YORK

Board of Education, Island Trees v. Pico
457 U.S. 853 (1982)

A summary of the implications of the United States Supreme Court decision in this case, handed down on June 25, 1982, is on page 5.

The Supreme Court accepted the school board's petition to hear the case after a court of appeals had ordered a full trial to determine the board's motivations for book removal.

Eleven books, including a Pulitzer Prize-winning novel by Bernard Malamud, and works by Langston Hughes, Kurt Vonnegut, and Jonathan Swift, were removed in 1976 because they appeared on a list of "objectionable books" obtained at a conference attended by several board members. The school board called the books (see page 5 for titles) "anti-American, anti-Christian, anti-Semetic (sic) and just plain filthy," and described specific objections in court affidavits. (A Hero Ain't Nothin' But a Sandwich, by Alice Childress, was called anti-American, in part because a black teacher in the novel tells his students that George Washington owned slaves.) An anthology of writings which included Jefferson and Madison was banned because Jonathan Swift's satirical essay "A Modest Proposal" was considered "in bad taste."

The school board reshelved the books after the Supreme Court decision, but imposed a "parental notification" restriction. The New York State Attorney General notified the board it was in violation of state law protecting confidentiality of library records, and the new restriction was dropped.

The New York Civil Liberties Union represented the student plaintiffs. Thirty-four organizations (see page 18 for listing) participated as friends-of-the-court in the Supreme Court in support of the students' contention that the First Amendment prohibits the state from proscribing "wrong" books.

Presidents Council v. Community School Board #25
457 F. 2d 289 (2d Cir. 1972) cert. denied
409 U.S. 998 (1972)

In this 1972 case from Queens, the Second Circuit Court of Appeals ruled that a school board can restrict student access to a school library book without violating student

First Amendment rights. The book involved was Down These Mean Streets by Piri Thomas (also one of the books at issue in Pico), an autobiographical account of growing up in Spanish Harlem. The school board had directed that only those libraries already possessing the book could shelve it, and that loans be restricted to parents of students in those schools. The court saw no constitutional issue in the school board's action, asserting that it was acting within its discretion in its role as administrator of the libraries — a role which involves "a constant process of selection based not only on educational needs but financial and architectural realities." The court did not address the issue of whether a board can remove books based on objections to their contents, a central issue in Pico and Bicknell. The Supreme Court refused to accept the case for review.

OHIO

Minarcini v. Strongsville City District
541 F. 2d 577 (6th Cir. 1976)

The Court of Appeals for the Sixth Circuit ruled in 1976 that the First Amendment does not permit a school board to purge school libraries of books on the basis of ideological and political considerations. The case involved the removal by school officials of copies of Kurt Vonnegut's God Bless You, Mr. Rosewater and Cat's Cradle and Joseph Heller's Catch-22 from Strongsville, Ohio school library shelves. After a U.S. District Court had upheld the action of the board, the case was taken for review to the appeals court by the Ohio Civil Liberties Union, and the District Court decision was unanimously reversed.

"A library is a storehouse of knowledge," the Court of Appeals said, and noted that the removal of books from a school library because their content was disapproved exerted a more serious pressure on free expression than the suppression of student demonstrations which was declared unconstitutional by the U.S. Supreme Court in the landmark Tinker case, where a ban against students wearing black armbands to protest the Vietnam War was overturned by the Court.

OREGON

Johnson v. Stuart
702 F. 2d 193 (9th Cir. 1983)

An Oregon textbook statute which specified that no American history or government text "...shall be used in the schools which speaks slightingly of the founders of the republic or of those who preserved the union or which belittles or undervalues their work," has been held unconstitutional. In accord with the statute's further provision, textbook publishers had been notified periodically of the restriction.

A suit was brought in 1978 by the Oregon Civil Liberties Union on behalf of several teachers' groups and students. A federal district court dismissed the case on the grounds that the plaintiffs lacked standing and that the suit was not ripe for adjudication. The Ninth Circuit Court of Appeals upheld the lack of standing with respect to the teachers groups, but ruled that the students did have standing to sue for their damages. Back in District Court on May 14, 1984, Judge James M. Burns granted the plaintiffs' motion for summary judgement, and ruled that statute unconstitutional. NCAC has notified leading textbook publishers of the ruling.

VERMONT

Bicknell v. Vergennes Union High School Board
475 F. Supp. 615 (D. Vt. 1979)
638 F. 2d 438 (2d Cir. 1980)

On October 2, 1980, the Second Circuit Court of Appeals decided this case, involving a school board's removal of books from a school library and restrictions on future acquisitions by the school librarian. (The Pico case was decided at the same time.) A divided panel held that allegations were insufficient to warrant any finding of First Amendment violations, that no political motivation had been involved, and that the books were removed because of "vulgarity and obscenity."

Amicus briefs in Pico (twelve separate briefs) were filed by:

For student plaintiffs

American Jewish Congress
American Jewish Committee
American Ethical Union
American Orthopsychiatric Association
Ethical Humanist Society of Long Island
Long Island Council of Churches
National Council of Jewish Women
National Council of Teachers of English
Office of Communication, United Church of Christ
Pilgrim Press, United Church Board for Homeland Ministries
Speech Communication Association
Student Press Law Center
Union of American Hebrew Congregations
Unitarian Universalist Association

American Library Association
New York Library Association
Freedom to Read Foundation

Anti-Defamation League of B'nai B'rith

Association of American Publishers
American Booksellers Association
American Society of Journalists and Authors
Council for Periodical Distributions Association
Independent Literary Agents Association
International Periodical Distributors Association
National Association of College Stores
Writers Guild of America, East

Authors League of America

Long Island Library Association Coalition

National Education Association

New York State United Teachers

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For school board

Citizens for Decency through Law

Legal Foundation of America

National Association of Secondary School Principals

To obtain briefs see pp. 23 and 24 for individuals.

BANNED BOOKS

Allen, Donald, editor. The New American Poetry. Grove: 1960. (Aurora, Colorado)

Anonymous. Go Ask Alice. Prentice-Hall: 1971; Avon: 1972. (Warsaw, Indiana; Island Trees, New York)

Alexander, Rae Pace, and Julius Lester, editors. Young and Black in America. Random House: 1972 (Elk River, Minnesota)

Archer, Jerome W., and A. Schwartz, editors. A Reader for Writers. McGraw-Hill: 1971. (Island Trees, New York)

Boston Women's Health Collective. Our Bodies, Ourselves. Simon and Schuster: 1976. (Helena, Montana)

Blatty, William P. The Exorcist. Harper & Row: 1971. (Aurora, Colorado)

Blume, Judy. Are You There God? It's Me, Margaret. Bradbury Press: 1970; Dell: 1974. Deenie. Bradbury Press: 1973; Dell: 1974. Then Again, Maybe I Won't. Bradbury Press: 1971. (Elk River, Minnesota)

Brautigan, Richard. The Abortion: An Historical Romance. Simon and Schuster: 1971. The Pill vs. the Springhill Mine Disaster. Dell: 1973. A Confederate General in Big Sur. Delta/Seymour Lawrence: 1964. Rommel Drives Deep into Egypt. Delacorte: 1969. Trout Fishing in America. Delacorte: 1970. (Anderson, California)

Burgess, Anthony. A Clockwork Orange. W. W. Norton: 1963. (Aurora, Colorado)

Burroughs, William, and Allen Ginsberg. The Yage Letters. City Lights: 1964. (Aurora, Colorado)

Childress, Alice. A Hero Ain't Nothin' But a Sandwich. Coward McCann: 1973; Avon: 1974. (Island Trees, New York)

Cleaver, Eldridge. Soul on Ice. McGraw-Hill: 1977. (Island Trees, New York)

Places in parentheses are where the book was banned.

Cox, R. David. Student Critic. Winthrop Publishers: 1974. (Warsaw, Indiana)

Ehrlich, Max. The Reincarnation of Peter Proud. Bobbs Merrill: 1974. (Aurora, Colorado)

Ferlinghetti, Lawrence. Coney Island of the Mind. New Directions: 1968. Starting from San Francisco. New Directions: 1967. (Aurora, Colorado)

Ginsberg, Allen. Kaddish and Other Poems. City Lights: 1960. (Aurora, Colorado)

Glasser, Ronald J. 365 Days. Braziller: 1971. (Baileyville, Maine)

Heller, Joseph. Catch-22. Simon and Schuster: 1961; Modern Library: 1976; Dell: 1976. (Strongsville, Ohio)

Heyman, Abigail. Growing Up Female in America. Holt, Rinehart and Winston: 1974. (Warsaw, Indiana)

Holt Basic Readings. Holt, Rinehart and Winston: 1983, 1980, 1977, 1973. (Church Hill, Tennessee)

Hughes, Langston, editor. Best Short Stories by Negro Writers. Little Brown: 1967. (Island Trees, New York)

Jackson, Shirley. The Lottery. Film version of short story. Also banned: A Discussion of Shirley Jackson's "The Lottery," 10-minute discussion film. Encyclopedia Brittanica Educational Corp. (Forest Lake, Minnesota)

Kesey, Ken. One Flew Over the Cuckoo's Nest. Viking Press: 1962; New American Library: 1965. (St. Anthony, Idaho)

La Farge, Oliver. Laughing Boy. Houghton-Mifflin: 1963; New American Library: 1971. (Island Trees, New York)

Larrick, Nancy, and Eve Merriam. Male and Female Under 18. Prentice-Hall; Avon: 1973. (Chelsea, Massachusetts)

Levin, Ira. Rosemary's Baby. Random House: 1967; (Aurora, Colorado); Stepford Wives. Random House: 1972. (Warsaw, Indiana)

Loewen, James, and Charles Sallis, editors. Mississippi: Conflict and Change. Pantheon: 1974. (Mississippi)

Malamud, Bernard. The Fixer. Farrar Strauss & Giroux: 1966;
Dell: 1968; Pocket Books: 1975. (Island Trees, New York)

Mann, Patrick. Dog Day Afternoon. Delacorte: 1975. (Vergennes, Vermont)

Morris, Desmond. The Naked Ape. McGraw-Hill: 1968; Dell: 1969. (Island Trees, New York)

Ms., various issues. New York. (Contra Costa, California; Nashua, New Hampshire)

O'Hara, Frank. Lunch Poems. City Lights: 1964. (Aurora, Colorado)

Parks, Gordon. The Learning Tree. Harper & Row: 1963; Fawcett: 1978. (Mead, Washington)

Plath, Sylvia. The Bell Jar. Harper: 1971; Bantam: 1975. (Warsaw, Indiana)

Price, Richard. The Wanderers. Houghton-Mifflin: 1974. (Vergennes, Vermont)

Simon, Sidney. Values Clarification. Hart Publishing: 1972. (Warsaw, Indiana)

Thomas, Piri. Down These Mean Streets. Knopf: 1967. (Queens, New York; Island Trees, New York)

Vonnegut, Kurt, Jr. Cat's Cradle. Delacorte: 1971; Dell: 1974. God Bless You, Mr. Rosewater. Holt, Rinehart and Winston: 1965; Dell: 1974. (Strongsville, Ohio) Slaughterhouse Five. Delacorte: 1969; Dell: 1974. (Island Trees, New York)

Waxman, Stephanie. What Is a Girl? What Is a Boy? Peace Press: 1976. (Elk River, Minnesota)

Wright, Richard. Black Boy. Harper & Row: 1966. (Island Trees, New York)

For a list of 33 books involved in English v. Evergreen School District contact the NCAC Clearinghouse.

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